

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4708

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN DIAZ-REBOLLAR,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Fox, Senior District Judge. (7:08-cr-00012-F-1)

Submitted: June 3, 2009

Decided: June 16, 2009

Before WILKINSON, NIEMEYER, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert Hood Hale, Jr., ROBERT H. HALE, JR. & ASSOCIATES, Raleigh, North Carolina, for Appellant. George E. B. Holding, United States Attorney, Robert J. Higdon, Jr., Eric Evenson, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Juan Diaz-Rebollar pled guilty to a single count of illegal reentry of a previously deported felon, in violation of 8 U.S.C. § 1326(b)(2) (2006), and was sentenced to 96 months in prison. On appeal, Diaz-Rebollar argues that the district court erred by not permitting him to allocute before announcing sentence. Our review of the sentencing transcript reveals the district court invited Diaz-Rebollar to allocute before the imposition of his sentence. See United States v. McClung, 483 F.3d 273, 276 (4th Cir. 2007) (allocution is the defendant's right to speak on his own behalf and present evidence that might mitigate his punishment), cert. denied, 128 S. Ct. 2954 (2008). Diaz-Rebollar simply chose not to use that opportunity. Therefore, the district court committed no error.

Accordingly, we affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED